

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 04-10164-DPW
)
 SHON ROWELL)

DEFENDANT'S MOTION TO SUPPRESS

Defendant, Shon Rowell, respectfully moves that this Court suppress from evidence at trial the following:

1. Any items seized from or statements made by defendant upon his seizure and search at 25 Wayne St.;
2. Selection of his photograph by witnesses Terrance Phillips and Willunda Jones from a photo array prepared by Boston Police detectives after his arrest; and
3. Any items allegedly observed or seized during a search of 25 Wayne St., Apartment No. 9 pursuant to a warrant subsequent to defendant's arrest.

As grounds for this motion, defendant states that the evidence was obtained in violation of his rights under the Fourth and Fifth Amendments to the Constitution.

Defendant further states:

1. Police did not have a warrant to stop or arrest the defendant at 25 Wayne St. when they first encountered him.
2. Police lacked probable cause to justify arresting the defendant when they encountered and seized him.

3. The defendant did not consent to the frisk, search, or detention at 25 Wayne St.

4. The actions of the police exceeded the permissible scope of a Terry stop.

5. The detectives' later creation of and presentation to two witnesses of a photographic array containing the defendant's picture was a fruit of this illegal arrest of defendant.

6. The issuance of a search warrant to enter 25 Wayne St., Apartment No. 9 was the fruit of the illegal arrest and the identifications derived therefrom.

Since the initial seizure and search of the defendant was not supported by a warrant, the government has the burden of showing that the challenged police conduct was lawful.

REQUEST FOR EVIDENTIARY HEARING

____ Defendant requests an evidentiary hearing on this motion.

SHON ROWELL,
By His Attorney:

/s/ Timothy Watkins
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May 2, 2005